

§ 422.68

42 CFR Ch. IV (10–1–10 Edition)

(4) An individual who has elected an MA plan that does not provide prescription drug coverage will not be deemed to have elected an MA-PD plan and will remain enrolled in the MA plan as provided in paragraph (e)(1) of this section.

(5) An individual enrolled in an MA-PD plan as of December 31 of a year is deemed to have elected to remain enrolled in that plan on January 1 of the following year.

(f) *Exception for employer group health plans.* (1) In cases when an MA organization has both a Medicare contract and a contract with an employer group health plan, and in which the MA organization arranges for the employer to process election forms for Medicare-entitled group members who wish to disenroll from the Medicare contract, the effective date of the election may be retroactive. Consistent with § 422.308(f)(2), payment adjustments based on a retroactive effective date may be made for up to a 90-day period.

(2) Upon receipt of the election from the employer, the MA organization must submit a disenrollment notice to CMS within timeframes specified by CMS.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998, as amended at 65 FR 40317, June 29, 2000; 70 FR 4718, Jan. 28, 2005; 70 FR 52026, Sept. 1, 2005]

§ 422.68 Effective dates of coverage and change of coverage.

(a) *Initial coverage election period.* An election made during an initial coverage election period as described in § 422.62(a)(1) is effective as of the first day of the month of entitlement to both Part A and Part B.

(b) *Annual coordinated election periods.* For an election or change of election made during the annual coordinated election period as described in § 422.62(a)(2)(i), coverage is effective as of the first day of the following calendar year except that for the annual coordinated election period described in § 422.62(a)(2)(ii), elections made after December 31, 2005 through May 15, 2006 are effective as of the first day of the first calendar month following the month in which the election is made.

(c) *Open enrollment periods.* For an election, or change in election, made

during an open enrollment period, as described in § 422.62(a)(3) through (a)(6), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

(d) *Special election periods.* For an election or change of election made during a special election period as described in § 422.62(b), the effective date of coverage shall be determined by CMS, to the extent practicable, in a manner consistent with protecting the continuity of health benefits coverage.

(e) *Special election period for individual age 65.* For an election of coverage under original Medicare made during a special election period for an individual age 65 as described in § 422.62(c), coverage is effective as of the first day of the first calendar month following the month in which the election is made.

[63 FR 35071, June 26, 1998, as amended at 65 FR 40317, June 29, 2000; 67 FR 13288, Mar. 22, 2002; 70 FR 4718, Jan. 28, 2005]

§ 422.74 Disenrollment by the MA organization.

(a) *General rule.* Except as provided in paragraphs (b) through (d) of this section, an MA organization may not—

(1) Disenroll an individual from any MA plan it offers; or

(2) Orally or in writing, or by any action or inaction, request or encourage an individual to disenroll.

(b) *Basis for disenrollment—*(1) *Optional disenrollment.* An MA organization may disenroll an individual from an MA plan it offers in any of the following circumstances:

(i) Any monthly basic and supplementary beneficiary premiums are not paid on a timely basis, subject to the grace period for late payment established under paragraph (d)(1) of this section.

(ii) The individual has engaged in disruptive behavior specified at paragraph (d)(2) of this section.

(iii) The individual provides fraudulent information on his or her election form or permits abuse of his or her enrollment card as specified in paragraph (d)(3) of this section.

(2) *Required disenrollment.* An MA organization must disenroll an individual